

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

No. C 08-1739 CW

COMMONWEALTH ANNUITY AND LIFE  
INSURANCE COMPANY, f/k/a ALLMERICA  
FINANCIAL LIFE INSURANCE AND ANNUITY  
CO.,

ORDER STRIKING  
PLAINTIFF'S NOTICE  
OF HEARING (Docket  
No. 44)

Plaintiff,

v.

JOHN DALESSIO; RITA DALESSIO; and the  
DALESSIO FAMILY 2003 TRUST,

Defendants.

The "notice of hearing on cross-motion of Plaintiff for summary judgment" is contrary to the Court's order of April 29, 2009 and is therefore stricken. As stated in that order, Plaintiff must file a single brief that both: 1) opposes Defendants' motion for summary judgment by responding to the arguments contained therein; and 2) provides notice of and arguments in support of its cross-motion for summary judgment. Plaintiff may not incorporate by reference its previous motion for summary judgment, which was also stricken by the Court as contrary to the April 29 order.

IT IS SO ORDERED.

Dated: 5/13/09



CLAUDIA WILKEN  
United States District Judge

UNITED STATES DISTRICT COURT  
FOR THE  
NORTHERN DISTRICT OF CALIFORNIA

COMMONWEALTH ANNUITY AND  
LIFE INSURANCE COMPANY et al,

Case Number: CV08-01739 CW

Plaintiff,

**CERTIFICATE OF SERVICE**

v.

DALESSIO et al,

Defendant.

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on May 13, 2009, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

John Dalessio  
Rita Dalessio  
16 Via Las Encinas  
Carmel Valley, CA 93924

Dated: May 13, 2009

Richard W. Wieking, Clerk  
By: Sheilah Cahill, Deputy Clerk